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General Street Railway Law * *

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(LAWS OF 1895.)

CHAPTER 27.

AN ACT IN RELATION TO THE INCORPORATION, ORGANIZATION, AND REGULATION OF STREET RAILWAY COMPANIES, AND AUTHORIZING THE USE OF ELECTRICITY AS MOTIVE POWER BY EXISTING STEAM RAILROADS.

SECTION

1. Street railway companies—powers, privileges, etc.
2. Meaning of certain words defined.
3. Street railway corporations, how created; capital stock.
4. Street railways not in public highways, how located; rights, privileges, etc.
5. Street railways in public highways or streets, how located.
6. Final jurisdiction over location of tracks, etc., where vested.
7. Supervision and regulation of railways in public highways, in whom vested; right of appeal.
8. Violation of rules and regulations subject to penalty.
9. Highways may be repaired or discontinued by cities or towns, as authorized by law, without liability.
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12. Company liable for willfully obstructing highway; penalty.
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SECTION

14. Passenger accommodations, rates of fare.
15. Railroad commissioners to have supervision of street railways.
16. Certificates of stock, when may be issued.
17. Issue of stock regulated.
18. Issue of stock, etc., contrary to provisions of this act, punishable by fine.
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20. Domestic corporation may be dissolved, when.
21. Principal place of business, where located.
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23. Rights of existing steam railroads, when building new lines to be operated by electricity, coequal with those of street railways in public highways.
24. Act subject to amendment or repeal; takes effect.

Be it enacted by the Senate and House of Representatives in General Court convened :

SECTION 1. Street railway companies shall have the powers and privileges, and be subject to the duties, liabilities, restrictions, and provisions, contained in this chapter, which, so far as inconsistent with charters and amendments thereof heretofore granted, shall be deemed to be an alteration and amendment thereof. All such companies specially chartered shall continue to exercise and enjoy the powers and privileges granted by their

Street railway companies—
powers, priv-
ileges, etc.

respective charters and amendments thereof, and shall continue subject to all the liabilities imposed by the same, except so far as said powers, privileges, and liabilities are modified and controlled by the provisions of this chapter; and all street railway companies shall be subject to any other general laws applicable thereto.

Meaning of
certain words
defined.

SECT. 2. As used in this chapter, the words "street railway companies" include all railway corporations authorized to lay and use any part of their railway tracks in public highways otherwise than for crossing purposes; the word "town" may mean town or city; and the word "selectmen" may mean the selectmen of towns or the mayor and aldermen of cities, as the case may be.

Street railway
corporations,
how created;
capital stock.

SECT. 3. Corporations for the purpose of constructing, maintaining, and operating street railways may be created and organized in the mode prescribed in sections 1 to 20, inclusive [for sections 1 to 20 see appendix hereto], of chapter 156 of the Public Statutes, all the provisions of which, except as herein modified, are hereby made applicable to all such corporations; and the question whether the public good requires the proposed street railway, and whether the public good requires that it shall be built on the proposed route, which shall be specifically set forth in the petition to the court, shall be determined in the manner provided in sections 8 to 13 inclusive, of said chapter 156. The capital stock of such corporations, to be paid in in cash, shall not be less than six thousand dollars [amendment making three thousand instead of six thousand] for each mile of the proposed railroad if the gauge thereof is to be three feet or less, and not less than ten thousand dollars [amendment making four thousand instead of ten thousand] each mile if the guage is to be more than three feet. It shall be divided into shares of one hundred dollars each.

Street rail-
ways not in
public high-
ways, how
located;
rights, privi-
leges, etc.

SECT. 4. All parts of street railways, not located in a public highway, shall be laid out, located, and the location changed, under the provisions of chapter 158 of the Public Statutes; and said railway corporations, and all persons whose property shall be taken for the use of such railway corporations, shall have respectively all the rights and privileges, and be subject to all the duties, restrictions, and liabilities contained in said chapter.

Street rail-
ways in pub-
lic highways
or streets,
how located.

SECT. 5. All parts of street railways occupying any portion of a public highway or street shall be located thereon by the mayor and aldermen of cities or selectmen of towns in which said portions of highways or streets may be. The board of mayor and aldermen of a city or the selectmen of a town, after the determination, as herein provided, that the public good requires the building of the proposed railway on the proposed route, upon petition of the directors of such railway corporation for a location of its tracks on or over any public highway upon the line of said route, shall give notice by publication to all parties interested of the time and place at which they will consider

such petition for location in the public highways of said town or city; and after a public hearing of all persons interested they may make an order granting the same, or any portion thereof, under such restrictions and upon such conditions as they may deem the interests of the public require; and the location thus granted shall be deemed to be the true location of the tracks of the railway. But upon petition of any party interested, and after a public hearing of all parties, the same may be changed at any time to other parts of the same highway or street by subsequent order of said mayor and aldermen or selectmen, or their successors in office, if in their judgment the public good requires such change; but if such order is made after the construction of such railway on the original location, an appeal therefrom by any party interested may be had to the board of railroad commissioners, whose decision shall be final; and the expense of making such change in location shall be apportioned by the board of railroad commissioners between the railway and the city or town as such board may deem just. The boards of mayor and aldermen of cities and selectmen of towns shall assess damages to abutters, subject to the right of appeal, in the same manner as now provided by law in the laying out of highways.

SECT. 6. The board of mayor and aldermen of cities and selectmen of towns shall, within their respective cities and towns, have exclusive and final jurisdiction to locate the tracks, sidetracks, turnouts, and poles of said street railway, and may order a street railway company to discontinue temporarily the use of any of its tracks in public highways, whenever they deem that the safety and convenience of the public require such discontinuance, without incurring any liability therefor, and from such orders there shall be no appeal.

Final jurisdiction over location of tracks, etc. where vested.

SECT. 7. The boards of mayor and aldermen of cities and selectmen of towns, respectively, may designate the quality and kind of materials to be used in the construction of said railway and any part thereof, and may from time to time make such reasonable orders, rules, and regulations with reference to that portion of the street railway occupying the public highway, as to rate of speed, the manner of operating the railway, the kind of motive power that may be used, the reconstruction of tracks, poles, wires, switches, and turnouts within any highway, in their respective cities or towns, as the interest or convenience of the public may require; and all designations, orders, rules, and regulations thus made or established shall be forthwith recorded in the records of said respective cities and towns. The railway company, or any person interested, may at any time appeal from such designations, orders, rules, and regulations thus made and established, to the board of railroad commissioners, who shall, upon notice, hear the parties, and finally determine the questions raised by said appeal.

Supervision and regulation of railways in public highways, in whom vested; right of appeal.

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Violation of
rules and reg-
ulations sub-
ject to pen-
alty.

SECT. 8. A street railway company, whose servants or agents willfully violate any regulations, rules, or orders established by virtue of the authority granted in this chapter, shall be fined not exceeding one hundred dollars for each offense.

Non-liability
of cities and
towns.

SECT. 9. Cities and towns may, for any lawful purpose, take up and repair highways occupied by street railways, or may alter or discontinue said highways as authorized by law, without incurring any liability therefor to any street railway company.

Street rail-
way must
keep road in
repair; dam-
age.

SECT. 10. Every street railway shall keep in repair, to the satisfaction of the superintendent of streets, street commissioner, road commissioner, or surveyor of highways, subject to an appeal to the selectmen, the paving, upper planking, or other surface material of the portions of highways and bridges occupied by its tracks, and shall keep in suitable repair for public travel the highway for at least eighteen inches on each side of the portion of the highway so occupied by its tracks; and shall be liable for any damage, loss, or injury that any person not in its employ may sustain by reason of the carelessness, negligence, or misconduct of its agents and servants in the construction, management, or use of its tracks.

Penalty for
obstructing
operation of
railway.

SECT. 11. If any person willfully obstructs a street railway company in the lawful use of its railway tracks in the public highways, or willfully and unnecessarily delays passing cars or railway carriages thereon, or aids in and abets such detention or delay, he shall be punished by a fine not exceeding one hundred dollars.

Company lia-
ble for will-
fully ob-
structing
highway;
penalty.

SECT. 12. If a street railway company, its agents or servants, willfully obstructs a highway, or willfully or unnecessarily hinders the passage of persons, carriages, or other vehicles over the same, the company so offending shall be punished by a fine not exceeding one hundred dollars.

Railway
crossings
regulated.

SECT. 13. No street railway company shall lay its tracks across the track of a steam railroad, and no steam railroad shall lay its tracks across the tracks of a street railway without the consent in writing of the board of railroad commissioners; and when the crossing is made at grade, said commissioners shall make such orders, rules, and regulations for the protection of all persons from injury at such crossings as they may deem sufficient and necessary. All expense incurred in providing and maintaining such suitable protection of all persons at said crossings shall be apportioned by the board of railroad commissioners between the two roads as they may deem just; and in all cases when a street railway crosses a steam railroad at grade, every driver of a car upon the street railway shall, when approaching the point of intersection, stop his car not more than seventy-five feet and not less than twenty feet from the crossing, and before attempting to cross carefully examine for approaching trains on the steam railroad, and shall not proceed to cross until it is ascertained that no trains are approaching and that the street railway car may cross with safety. The board of railroad commissioners may from time to time change and

modify such orders, rules, and regulations as the public safety and convenience may require. Whenever a crossing of the tracks of a steam railroad is to be made by a street railway otherwise than at grade, and the means existing therefor, by bridge or otherwise, at the time said crossing is authorized by said board of railroad commissioners, are not sufficient for the safe and proper operation of said street railway, and any alterations therein are made necessary thereby, the expense of making such alterations shall be borne by the railroad or railway at whose request and for whose benefit they are made; and whenever such street railway shall pass over any bridge upon its route, and alterations are thereby made necessary for the safety and convenience of travelers, the expense of such alterations thereon shall be borne by the railway. In case of any disagreement as to the necessity and extent of such alterations, the same shall be determined by the railroad commissioners, whose decision shall be final.

SECT. 14. Every street railway company shall furnish reasonable accommodations for the conveyance of passengers, and for every willful neglect to provide the same shall be fined not less than five nor more than twenty dollars; and its directors may establish the rates of fare on all passengers conveyed or transported in its cars, subject, however, to the limitations set forth in this chapter.

Passenger accommodations; rates of fares.

SECT. 15. The railroad commissioners shall have general supervision of all street railways within the state; and all the provisions of chapter 155 of the Public Statutes, with reference to the powers of the railroad commissioners over railroads and the duties of railroads as therein set forth, shall extend to and be applicable to all street railway corporations, so far as the same are not inconsistent with the provisions of this act.

Railroad commissioners to have supervision of street railways.

SECT. 16. No certificate of stock in any street railway corporation shall be issued until the par value thereof is actually paid into the treasury in cash; and no street railway corporation shall contract debts or incur liabilities exceeding the amount of its capital stock so paid.

Certificates of stock, when may be issued.

SECT. 17. Street railway companies, whether such companies are organized under this act or general laws or special charter, and however authorized to issue capital stock and bonds, shall hereafter issue only such amounts of stock and bonds as may from time to time, upon investigation by the board of railroad commissioners, be deemed and be voted by them to be reasonably requisite for the purposes for which such issue of stock or bonds has been authorized. The said board shall announce a decision within thirty days from the date of the last hearing, upon the application of any street railway company for permission to issue such stock or bonds. The provisions of this section shall not apply to bonds already executed and in the hands of trustees under existing mortgages to secure the same.

Issue of stock regulated.

SECT. 18. Any member of the board of directors, or any treasurer or other officer or agent of any street railway company who

Issue of stock, etc., contrary to

provisions of this act, punishable by fine.

knowingly votes to authorize the issue of, or knowingly signs, certifies, or issues stock or bonds contrary to the provisions of this act, or who knowingly votes to authorize the application of, or knowingly applies the proceeds of, such stock or bonds contrary to the provisions of this act, or who knowingly votes to assume or incur, or knowingly assumes or incurs, in the name or behalf of such corporation, any debt or liability except for the legitimate purposes of the corporation, or exceeding the amount of its capital stock paid in cash, shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both fine and imprisonment.

Supreme court may enforce orders, etc., of railroad commissioners.

SECT. 19. The supreme court may, on the application of said commissioners, or the attorney-general, or any stockholder, or any interested party, enforce all lawful orders, rules, regulations, and decisions of said commissioners made in pursuance of the provisions of this act, and all provisions of law herein contained respecting such companies.

Domestic corporation may be dissolved, when.

SECT. 20. If a foreign corporation which owns or controls a majority of the capital stock of a domestic street railway shall hereafter issue stock, bonds, or other evidences of indebtedness based upon or secured by the property, franchises, or stock of such domestic corporation, unless such issue is authorized by the law of this state, the supreme court sitting in equity shall, upon petition of any party interested, dissolve such domestic corporation.

Principal place of business, where located.

SECT. 21. The principal place of business of every corporation formed under the provisions of this chapter, or under any special charter heretofore granted, and the offices, shall be within this state.

Steam railroads authorized to operate their roads by electricity.

SECT. 22. Every railroad corporation established under the laws of this state, and operating railroads therein with steam for a motive power, are hereby authorized to operate their railroads, or any part thereof, by electricity; and for the purpose of making the necessary changes from steam to electricity as motive power, every such railroad corporation may, with the consent of the railroad commissioners, and subject to the provisions of sections 17 and 18 of this act, issue such an additional amount of capital stock as may be necessary to defray the expenses of making such change in motive power and equipment.

Rights of existing steam railroads, when building new lines to be operated by electricity, coequal with those of street railways in public highways.

SECT. 23. If any existing steam railroad shall build extensions, branches, or additions to its lines, to be operated by electricity as the motive power, such steam railroad shall have the same right to build and operate such extensions, branches, and additions in the public highways, and be subject to all the duties, liabilities, and restrictions as to that part of said extensions, branches, and additions operated by electricity in public highways, as by the provisions of this act are conferred and imposed upon street railways in their use of public highways.

Act subject to amendment or repeal; takes effect.

SECT. 24. The legislature may at any time alter, amend, or repeal this act whenever the public good requires, and this act shall take effect on its passage.

[Approved March 13, 1895.]

APPENDIX.

PUBLIC STATUTES, CHAPTER 156, SECTIONS 1-20.

FORMATION OF RAILROAD CORPORATIONS; UNION OF RAILROAD CORPORATIONS; LEASES AND EXTENSIONS.

FORMATION OF A RAILROAD CORPORATION.

SECTION

1. Twenty-five or more persons may associate together to form a railroad corporation.
2. Articles of agreement to set forth, what.
3. Corporate name.
4. Capital stock; par value of shares.
5. Record and filing of articles of agreement.
6. Provisional corporation and its franchises.
7. Limitation of provisional corporation.
8. May apply to court for determination of public necessity.
9. A judge authorized to make an order of notice upon the petition.
10. Questions of fact, how determined.

SECTION

11. Notice of hearing before commissioners or referees, how given.
12. Hearing and report.
13. Courts, decision and record.
14. Provisional corporation becomes railroad corporation, how; certificate of establishment.
15. First meeting, how called.
16. Franchises forfeited as to those portions of road not built within three years.
17. May increase its capital stock, etc.

BUILDING OF EXTENSION AND BRANCHES.

18. Railroad corporations may build extensions and branches, how.
19. Same subject.
20. Limitation of authority.

FORMATION OF A RAILROAD CORPORATION.

SECTION 1. Twenty-five or more persons, a majority of whom are residents of this state, may associate together by articles of agreement, for the purpose of forming a corporation to construct, maintain, and operate a railroad.

SECT. 2. The articles of agreement shall set forth the name of the corporation; the termini of the proposed railroad; its length, as nearly as may be; the name of each city, town, and county through or into which its route will extend; its gauge; the amount of the capital stock of the corporation; the appointment of seven at least of the subscribers to act as directors of the corporation until others are chosen, a majority of whom shall be residents of the state; and a provision that each subscriber will take the number of shares of the capital stock set opposite to his name and will pay the par value thereof, subject to the condition that he shall not be bound to pay more than ten per cent of the amount of his subscription unless the corporation is established.

The articles shall be signed by the associates, and each shall affix to his signature his residence, postoffice address, and the number of shares of the capital stock which he agrees to take.

SECT. 3. The corporate name shall be one that is not in use by any other corporation in the state; and it shall not be changed except by the legislature.

SECT. 4. The capital stock of the corporation shall not be less than six thousand dollars for each mile of the proposed railroad if the gauge thereof is to be three feet or less, and not less than fifteen thousand dollars each mile if the gauge is to be more than three feet. It shall be divided into shares of one hundred dollars each.

SECT. 5. When the full amount of the capital stock has been subscribed in good faith by responsible parties, the directors shall cause the articles of agreement to be recorded in the office of the secretary of state, and a true copy thereof, attested by a majority of the directors, to be filed in the office of the clerk of each city and town through or into which the route of the proposed railroad will extend.

SECT. 6. The subscribers to the articles of agreement, and their assigns, shall thereupon become and be a corporation (herein termed the provisional corporation) having the following franchises, and no other: I. Authority to organize and to elect officers and agents; II. Authority to make necessary surveys for the proposed railroad and to enter upon any land for that purpose; III. Authority to take all other preliminary steps required in the formation of a railroad corporation.

SECT. 7. If the provisional corporation shall not take the necessary steps, and become a railroad corporation within two years after the time of the record of its articles of agreement in the office of the secretary of state, its existence as a corporation shall terminate.

SECT. 8. The provisional corporation may file in the office of the clerk of the supreme court in any county, through or into which the route of its proposed railroad will extend, a petition to the court for a decision of the question whether the public requires the proposed railroad.

SECT. 9. Any justice of the court, in term time or vacation, upon application by the petitioner, and without notice to other parties, shall order such notice to be given of the petition as he deems reasonable, returnable at the next regular or adjourned law term of the court for which it is practicable to give the notice.

SECT. 10. At the term to which the order of notice is made returnable, if it appears to the court that sufficient notice of the petition has been given, and that all preliminary steps have been taken and the capital stock has been subscribed by responsible parties, in good faith, with the intention of building the road, and if no sufficient objection is made, the court shall refer the petition to the board of railroad commissioners, or to a board of

three referees appointed by the court, as they shall deem best, to find and report the facts bearing upon the petition.

SECT. 11. The board to whom the petition is referred shall appoint a time and place of hearing, and shall give notice thereof by causing a copy of the petition and of their order thereon to be given to the attorney-general of the state, or to be left at his abode, fourteen days before the day of hearing, and like copies to be posted in two or more public places in each city or town through or into which the route of the proposed railroad will extend, thirty days at least before the day of hearing, and by causing like copies to be published in one or more newspapers published in Concord, and in each of the counties which will contain any portion of the proposed railroad.

SECT. 12. The board shall hear all parties who are interested and desire to be heard, and shall make report of their doings and findings to the regular or adjourned law term of the court holden next after their last hearing.

SECT. 13. The court shall thereupon, after hearing such parties as desire to be heard, decide the questions raised by the petition, and cause a record of their decision to be made.

SECT. 14. If they decide that the public good requires the proposed railroad, the secretary of state, upon receipt of a copy of such decision, shall issue to the corporation a certificate, substantially in the following form :

THE STATE OF NEW HAMPSHIRE.

Be it known that whereas———have associated themselves together with the intention of forming a corporation under the name of the———, for the purpose of locating, constructing, maintaining and operating a railroad (description of road as in articles of agreement), and have complied with the laws of the state relating thereto; therefore I,———, secretary of state, do hereby certify that the said persons, their associates and successors, are legally established as a corporation under the name aforesaid, having all the powers and privileges, and being subject to all the duties, liabilities, and restrictions, of similar corporations under the laws of this state.

In witness whereof I have hereunto subscribed my name and affixed the seal of state this———day of———, in the year———.

[L. s.]

———, *Secretary of State.*

The secretary of state shall record such certificate in connection with the articles of agreement previously recorded in his office. The provisional corporation shall thereupon become a railroad corporation, having all the powers and privileges, and being subject to all the duties, liabilities, and restrictions of similar corporations, except so far as the same are limited or enlarged by this chapter.

SECT. 15. The directors may call a meeting of the subscribers to the capital stock of the corporation, for the purpose of adopting by-laws and completing a permanent organization, and give such notice thereof as they deem reasonable.

SECT. 16. All the franchises and rights of a corporation so established, as to any portion of its railroad which is not completed ready for operation at the end of three years from the date of its certificate of establishment, shall be forfeited.

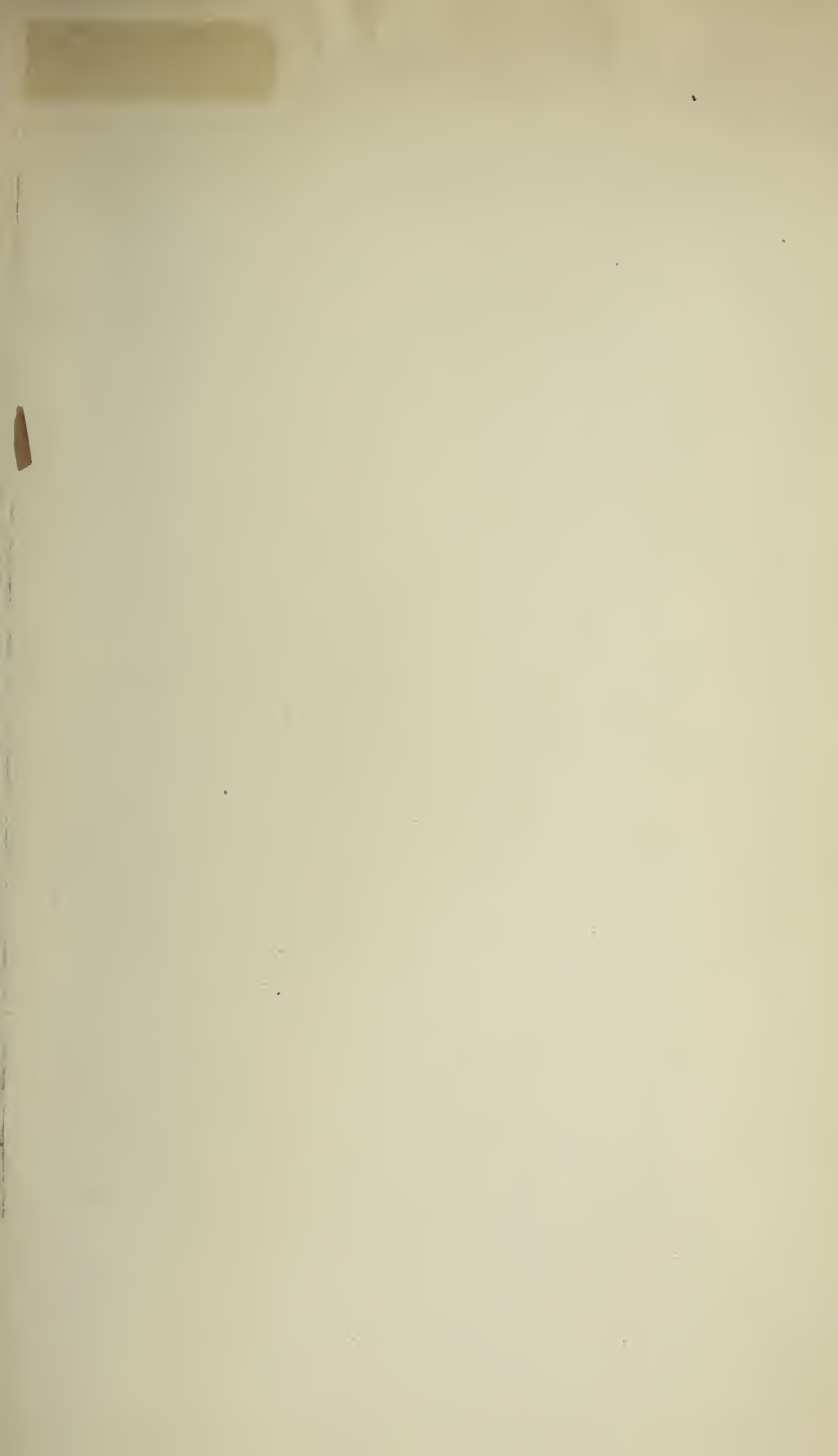
SECT. 17. The corporation may from time to time increase its capital stock, as may be necessary to raise money to construct and equip its railroad, and may change the gauge thereof, provided it also increases its capital stock to correspond with the new gauge established. It shall file with the secretary of state forthwith a certified copy of every vote passed for such purposes, and the increase of capital or change of gauge shall not be authorized until the copy is so filed.

BUILDING OF EXTENSIONS AND BRANCHES.

SECT. 18. If a railroad corporation desires to build an extension of its railroad, or a branch railroad, it may file in the office of the clerk of the supreme court of the county in which its principal office is located, a petition to the court for a determination of the question whether the public good requires the building of such extension or branch. The petition shall set forth the termini, gauge, general description, and probable cost of such extension or branch. The court, at a regular or adjourned law term, after notice and finding of the facts, and a hearing of the parties as provided in sections nine, ten, eleven, twelve, and thirteen of this chapter, shall determine the question so presented.

SECT. 19. If the court determine that the public good requires the building of the extension or branch, the corporation shall file a copy of the petition and of the decision of the court thereon in the office of the secretary of state, and shall thereupon have authority to locate and take necessary lands therefor, as in other cases, to build and operate the same, and to raise the money for the construction and equipment of such branch or extension, by increasing its capital stock, or by issuing its bonds or notes, within the limits prescribed by law.

SECT. 20. Authority obtained under the provisions of the two preceding sections must be exercised within two years after the decision of the court is made; and no part of an extension or branch shall be built under such authority after the expiration of that time.





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